

187—2.12(17A,524) Supplemental application procedures.

2.12(1) Scope. Subrules 2.12(2) to 2.12(14) contain procedures by which the superintendent may reach informed decisions with respect to those applications which the superintendent shall deem a public hearing necessary. These procedures provide a method by which all persons interested in the subject matter of such applications or other cases in which a public hearing is deemed necessary may present their views. Nothing contained herein shall be construed to prevent interested persons from presenting their views in a more informal manner when deemed appropriate by the superintendent or to prevent the superintendent from conducting such other investigation as may be deemed appropriate.

2.12(2) Notice of filing of application. Except in the case of proposed transactions where notice by publication is governed by statute, the applicant shall, within 15 days after the superintendent has notified the applicant in writing that an application has been accepted for processing, publish one time in a newspaper of general circulation in the community in which the applicant proposes to engage in business a notice containing the name of the applicant or applicants, the subject matter of the application, and the date upon which the application was accepted for processing. Immediately thereafter, the applicant shall furnish the superintendent with proof of such publication. The superintendent may solicit, in whatever manner deemed appropriate, comments from banks which may be affected by or have an interest in the pending application.

2.12(3) Public file. The public file in each case shall consist of the application with supporting data and supplementary information with the exception of material deemed by the superintendent to be confidential. In addition, the public file shall contain all data and information submitted by interested persons in favor of or in opposition to such application, excluding any material deemed by the superintendent to be confidential. The superintendent or the superintendent's designee shall not deem information confidential for purposes of the two immediately preceding sentences unless the person submitting the information requests that such information be deemed confidential. All factual information contained in any internal investigation report made by a bank examiner shall also be made a part of the public file, unless deemed confidential by the superintendent.

a. The public file shall be available for inspection in the office of the superintendent upon request from a protesting person and to such other persons as the superintendent shall deem to have a direct interest therein during such periods of time as the superintendent shall prescribe.

b. No documentation in the public file may be removed from the superintendent's office by persons other than members of the superintendent's staff. Photocopies may be made available, on request, to protesting and other interested parties. The charge for such copies shall be made in accordance with a written schedule maintained by the superintendent.

2.12(4) Written comments and requests for an opportunity to be heard. Within ten days after the notice of publication described in subrule 2.12(2), any interested person may submit to the superintendent written comments concerning the application or a written request for an opportunity to be heard before the superintendent or the superintendent's designee. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. In the absence of a request, the superintendent, when it is believed to be in the public interest, may order a hearing to be held.

2.12(5) Place of hearing. Hearings granted by the superintendent shall be heard in the office of the superintendent. The superintendent, in any matter, reserves the right to conduct hearings at any location deemed to be appropriate.

2.12(6) Date of hearing. An opportunity to be heard shall be given as soon as practicable after ordered.

2.12(7) Notice of hearing. The notice given by the superintendent concerning the hearing shall set forth the subject matter of the application, the legal authority for such hearing, and the date, time, and place of the hearing. The notice shall be sent to the person or persons requesting the hearing, the applicant and to other interested persons who have sent written comments to the superintendent.

2.12(8) Attendance at hearing. Each person who wishes to be heard shall notify the superintendent within five days after the date of the notice described in subrule 2.12(7) of their intention to attend and shall submit the number and names of witnesses to be presented.

2.12(9) *Presiding officer.* The presiding officer at the hearing shall be the superintendent or such other person as may be designated by the superintendent.

2.12(10) *Hearing rules.* The applicant and each participant may make opening statements of a length within the discretion of the presiding officer. Such opening statements should concisely state what the participant intends to show. The applicant shall have the opportunity to present a statement first. Following the opening statements, the applicant shall present data and materials, oral or documentary. Following the applicant's presentation, the persons protesting the application shall present their data and materials, oral or documentary. The protesters may agree, with the approval of the presiding officer, to have one of their number make their presentation. Following the evidence of the applicant and the protester, the presiding officer may recognize other interested persons who may present their views with respect to the application under consideration. After all the above presentations have been concluded, the participants before the panel may make short and concise summary statements reviewing their position. The applicant shall present a concluding summary statement.

a. The obtaining and use of witnesses is the responsibility of the parties. All witnesses will be present on their own volition, but any person appearing as a witness may be subject to questioning by any participant. The refusal of a witness to answer questions may be considered by the superintendent in determining the weight to be accorded the testimony of that witness. Witnesses shall be sworn.

b. The presiding officer shall have the authority to exclude data or materials deemed to be improper or irrelevant. Formal rules of evidence shall not be applicable to these hearings. Documentary material must be of a size consistent with ease of handling, transportation and filing, and copies must be provided for each participant. While large exhibits may be used during the hearing, copies of such exhibits must be provided by the party in reduced size for submission as evidence. Two copies of all such documentary evidence shall be furnished to the superintendent, and one copy shall be furnished to each other person represented at the proceeding.

c. The superintendent or the superintendent's designee shall determine all procedural questions not governed by these rules. The superintendent or the superintendent's designee shall have the authority to limit the number of witnesses to be used by any party, and to impose such time limitations as shall be deemed reasonable.

d. A transcript of each proceeding shall be arranged for by the superintendent's office, with all expenses of such service, including the furnishing of one copy of the transcript to the superintendent, being borne by the person or persons requesting the opportunity to be heard, except for hearings ordered by the superintendent's office on its own volition, in which case, the applicant will bear the expense of furnishing transcripts of the record.

e. The public file described in subrule 2.12(3) shall automatically be deemed a part of the record of these proceedings as well as all evidence submitted and the transcript described in paragraph "*d*" of this subrule.

2.12(11) *Closing of the public file.* If requested by any participant, the public file shall remain open for five days following receipt of the transcript by the superintendent during which time the applicant and protesters may submit additional written statements. A copy of any statement so submitted during this period of time shall also be sent simultaneously to the other persons represented at the hearing.

2.12(12) Reserved.

2.12(13) *Decision.* The applicant and all persons so requesting in writing shall be notified of the final disposition of the application by the superintendent.

2.12(14) *Computation of time.* In computing any period of days provided for in this rule, the day of the event from which the period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this subrule, "legal holiday" means a day on which the office of the superintendent remains closed.

This rule is intended to implement Iowa Code sections 17A.3, 524.305, 524.312, 524.1201, 524.1303, and 524.1403.